

1 Philip Bautista, Pro se
2 C/o 1501 Front Street, #409
3 San Diego, California state [92101]
4 Non-domestic without US

FILED

08 APR 15 PM 12:58

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: CR DEPUTY

IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

8 **PHILIP BAUTISTA**

9 Plaintiff

FEDERAL CASE NO.

10 '08 CV U 685 BEN LSP

11 Vs.

12 **BANK OF AMERICA &**

13 **OLD REPUBLIC EQUITY CREDIT**

14 **SERVICES**

15 Defendant/Co-Defendant

16 **COMPLAINT FOR DAMAGES**
17 **With SUPPLEMENTAL OF JURISDICTION**
18 **Pursuant to 28 U.S.C. 1367**

19 COMES NOW Phillip Bautista (Plaintiff) as above stated with the following Complaint
20 for Damages. Bank of America and Old Republic Equity Credit Services as Defendant and Co-
21 Defendant. This Complaint for Damages is set forth the following grounds with: Statement of
22 Federal Jurisdiction, Statement of Supplemental of Jurisdiction and Applicable law:
23

24 **STATEMENT OF FEDERAL JURISDICTION**

25 The U.S. District Court has jurisdiction over this complaint for damages for the following
26 reasons: the dollar amount in controversy exceeds \$75,000, there is a federal question of law and
27 there is diversity of jurisdiction.
28

STATEMENT OF SUPPLEMENTAL JURISDICTION

The U.S. District Court has supplemental jurisdiction over any and all State Court claims and State Court related claims pursuant to 28 U.S.C. 1337.

APPLICABLE LAW

The following Applicable Statues are set forth in this Complaint for Damages as Mandatory Authority with respect to the U.S. Supremacy Clause, the Preemption Doctrine and the U.S. Constitution. Art. VI, Paragraph 2. The three following legal distinctive authorizes known, as Mandatory Authority, Controlling Authority and Supporting Authority are set forth herein.

Mandatory Authority**(U.S. Supremacy Clause)**

(a) 28 USC 1367, 28 USC 1367(a), 28 USC 1367(e)(d), 11 USC 362(C), 12 USC 3752(1), 12 USC 3755, 12 USC 3752(3), 12 USC 3752(7), 12 USC 3758(1), 12 USC 3752(1), 12 USC 3758(1), 12 USC 3758(2)(A)(i), 12 USC 3758(3)(A), 12 USC 3757, 12 USC 3757(9), 12 USC 3757(10), 12 USC 3759(C), 12 USC 3765, 12 USC 3765(1), 12 USC 3765(2), 12 USC 3765(3), Title 15 Fair Debt Collections Act, 12 USC 1201(RESPA), Article 3 section 603 of the UCC.

The Plaintiff's enumerated complaint for damages respectfully shows the following:

1.

The Defendants did unlawfully violate 12 U.S.C. 3758(1) with foreclosure proceedings not giving 21 day notice prior to foreclosure.

2.

The Defendants did unlawfully violate Fair Debt Collections Act with Foreclosure proceedings.

1 3.

2 The Defendants did unlawfully violate 12 U.S.C. 3758(3)(A); not conducting publication
3 during 3 successive calendar weeks before the date of foreclosure sale date.

4 4.

5 The Defendants did unlawfully violate 12 U.S.C. 3765(1); not making the plaintiff a
6 notice recipient as required in 12 U.S.C. 3758(1).

7 5.

8 The Defendants did unlawfully violate 12 U.S.C. 3765(1); not making the plaintiff a
9 notice recipient as required in 12 U.S.C. 3758(3)(A).

10 6.

11 The Defendants unlawfully did violate Article 3 section 306 of the Uniform Commercial
12 Code foreclosure proceedings.

13 7.

14 The Defendants did unlawfully conduct a foreclosure proceeding below true market value
15 of the property owned by the Plaintiff.

16 8.

17 The Defendants did unlawfully violate 11 U.S.C 362(c) foreclosure proceedings.

18 WHEREFORE the Plaintiff demands the following relief:

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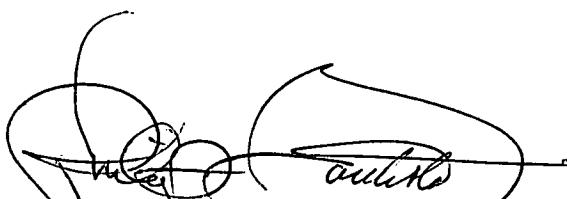
25

26 1. The honorable court award compensatory damages and punitive damages to Phillip
27 Bautista in the amount of \$2,000,000 by entering a judgment against Bank of America.

27

28 2. This honorable court enters a judgment against Old Republic Equity Credit Services, Inc.
\$500,000 for violation of the title 11 of the U.S. Bankruptcy Code with unlawful
foreclosure proceedings.

1 3. Grant all relief this Court deems just and proper.
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Philip Bautista, Petitioner/Appellant, Pro se

4-11-08

Philip Bautista, Pro se
C/o 1501 Front Street, #409
San Diego, California state [92101]
Non-domestic without US

**IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

CERTIFICATE OF SERVICE

I, Philip Bautista, certify that I have furnished a copy of this pleading via U.S. Postal Service, with sufficient postage to respondent located at the following address:

Distribution List:
Regional Trustee Services Corporation
616 1st Avenue, Suite 500
Seattle, WA 98104

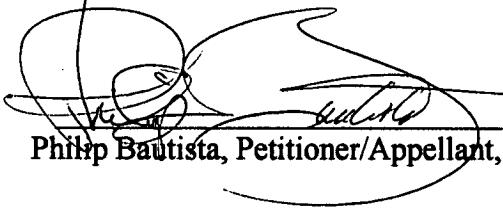
Philip Bautista, Petitioner/Appellant, Pro se

1
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9
10 **IN UNITED STATES DISTRICT COURT**
11 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**
12
13

14
15 **VERIFICATION**
16 **(Affidavit)**
17

18 The undersigned Affiant Phillip Bautista by appellation does here with swear,
19 declare and affirm that the Affiant executes this Affidavit with sincere intent and competently
20 states the matters set forth. I the undersigned being under oath and declare under penalty of
21 perjury, that I do not have an attorney to represent me in this case. Also that the contents are
22 true, correct and not misleading to the best of his knowledge.
23
24

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26 
27 4-11-08
28 Phillip Bautista, Petitioner/Appellant, Pro se

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Philip Bautista, Pro se

VS.

BANK OF AMERICA

Case No.

DECLARATION OF SERVICE

Person Served:
BANK OF AMERICA

Date Served:

I, the undersigned declare under penalty of perjury that I am over the age of eighteen years and not a party to this action; that I served the above named person the following documents:

in the following manner: (check one)

- 1) By personally delivering copies to the person served.
- 2) By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left.
- 3) By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of his office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left.
- 4) By placing a copy in a separate envelope, with postage fully prepaid, for each address named below and depositing each in the U.S. Mail at Bonita, California

Executed on 10/10/2008 at Bonita, California

**UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

149740 - MS

**April 15, 2008
13:02:00**

Civ Fil Non-Pris

USAO #.: 08CV0685 BEN
Amount.: \$350.00 CK
Check#: PC1443

Total-> \$350.00

FROM: PHILIP BAUTISTA VS.
BANK OF AMERICA & OLD REPUBLIC
EQUITY CREDIT SERVICES

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Philip Bautista, Pro se

(b) County of Residence of First Listed Plaintiff SAN DIEGO
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Philip Bautista, Pro se, 1501 Front Street, #409
San Diego, California state [92101]

DEFENDANTS

BANK OF AMERICA & OLD REPUBLIC EQUITY CREDIT SERVICES

08 APR 15 PM 12:58

County of Residence of First Listed Defendant

CLERK, U.S. DISTRICT COURT

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

08 CV U 685 BEN LSP

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	<input checked="" type="checkbox"/> PTF 1	<input type="checkbox"/> DEF 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> PTF 4	<input type="checkbox"/> DEF 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
 REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input checked="" type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	Labor <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
				FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(Place an "X" in One Box Only)

<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC 1337

Brief description of cause:

COMPLAINT FOR DAMAGES.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

4/15/08

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # 149740 AMOUNT \$350

APPLYING IPP

JUDGE

MAG. JUDGE

MS 4/15

ER